

REMARKS/ARGUMENTS

The status of the claims with respect to the status of claims at the time of the non-final Office Action of July 9, 2008 is described. Claims 1 – 10, 13, 14, 17 – 19, 21, 24 – 27, 34, and 42 – 45 are pending. Claims 1, 7 – 10, 13, 14, 17, 18, 26, 27, 34, and 42 – 45 have been withdrawn. Withdrawn claims 1, 13, and 18 are amended. Claim 21 is amended.

Reconsideration is respectfully requested in view of the remarks below.

Claim Rejections - 35 USC § 103

Claims 2 – 6, 19, 21, 24, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lazarov et al., United States Patent No. 6,110,204 (“Lazarov”), in view of Malik et al., *J. Vac. Sci. Technol. A*, 15(6), Nov/Dec 1997 (“Malik”).

Applicants respectfully traverse the Examiner’s rejection. First, the Examiner has made an error in interpreting Malik’s disclosure. The Examiner is incorrect, Malik does not “teach implantation of various metallic compounds (including Ti, N, and O). . . .” By stating “[a]fter sputter cleaning, the substrate may be implanted with a relevant ion species for improved adhesion” (page 2876, column 1, lines 10 – 12) Malik teaches the general concept of ion implantation. The only specific example of implantation provided was the implantation of carbon ions (page 2877, column 1, lines 9 – 11). Therefore, with the exception of carbon ions, there is no teaching of what the term “relevant ions” means. Malik does not teach the implantation of Ti or its alloys, but teaches use of a Ti as a sputtering target.

Second, regardless of the Examiner’s misinterpretation of Malik, the combination fails to teach what has been claimed. Lazarov and Malik, alone or in combination, fail to teach the tri-region construct as claimed in claims 19 and 21. More specifically, the references fail to teach “first region having Ti or N implanted on a molecular or atomic level at a depth within at least a

region of a surface of the stent; a second region over the first region having TiN implanted on a molecular or atomic level at a depth within at least a region of a surface of the stent; and a layer of TiN_xO_y compound over the second region,” as recited by claim 21 and “implanting Ti or N into the surface of the stent on a molecular or atomic level, followed by implanting TiN over the Ti or N, and followed by forming a layer of a TiN_xO_y compound over at least some of the areas where TiN has been implanted,” as recited by claim 19. The Examiner admitted “Lazarov reference does not disclose the compound [titanium-nitride-oxide (TiN_xO_y)] is implanted on a molecular level within the surface of the stent.” As noted above, Malik only teaches the implantation of carbon ions and other unspecified “relevant ions.” The Examiner has not explained how the combination of the two references would have led one of ordinary skill in the art to the device of claim 21 with the two regions and a layer on top of the second region, or the method of claim 19 which involves the three processing steps. Therefore, claims 19 and 21, as well as claims dependent thereon, are allowable over Lazarov in view of Malik.

Applicants respectfully request the removal of the rejection under 35 U.S.C. §103(a) of claims 2 – 6, 19, 21, 24 and 25, and allowance of these claims.

Conclusion

In light of the foregoing claim amendments and remarks, this application is considered to be in condition for allowance. Applicants respectfully request the allowance of claims 2 – 6, 19, 21, 24, and 25. Applicants reserve the right to file a divisional application for restricted but unelected Species II from the restriction requirement of June 6, 2004.

If necessary to ensure a timely response, this paper should be considered as a petition for an Extension of Time sufficient to provide a timely response. The undersigned authorizes the

Commissioner to charge any fees that may be required, or credit of any overpayment to be made,
to the **Squire, Sanders, and Dempsey Deposit Account No. 07-1850.**

Should the Examiner have any questions regarding this communication, the Examiner is
invited to contact the undersigned at the telephone number shown below.

Respectfully submitted,

Dated: February 24 2009
Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111
Telephone (415) 954-0397
Facsimile (415) 393-9887

By Gloria M. Gusler
Gloria M. Gusler
Attorney for Applicants
Reg. No. 50,282